

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 638 & 647

97TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 1, 2014, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 638 and 647, adopted April 15, 2014.

Taken up for Perfection April 15, 2014. Bill declared Perfected and Ordered Printed, as amended.

4975S.03P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.460, 135.600, 135.630, and 135.647, RSMo, and to enact in lieu thereof four new sections relating to certain benevolent tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.460, 135.600, 135.630, and 135.647, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 135.460, 135.600, 135.630, and 135.647, to read as follows:

135.460. 1. This section and sections 620.1100 and 620.1103 shall be
2 known and may be cited as the "Youth Opportunities and Violence Prevention
3 Act".

4 2. As used in this section, the term "taxpayer" shall include corporations
5 as defined in section 143.441 or 143.471, any charitable organization which is
6 exempt from federal income tax and whose Missouri unrelated business taxable
7 income, if any, would be subject to the state income tax imposed under chapter
8 143, and individuals, individual proprietorships and partnerships.

9 3. A taxpayer shall be allowed a tax credit against the tax otherwise due
10 pursuant to chapter 143, excluding withholding tax imposed by sections 143.191
11 to 143.265, chapter 147, chapter 148, or chapter 153 in an amount equal to thirty
12 percent for property contributions and fifty percent for monetary contributions of
13 the amount such taxpayer contributed to the programs described in subsection 5
14 of this section, not to exceed two hundred thousand dollars per taxable year, per
15 taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this
16 section. The department of economic development shall prescribe the method for

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 claiming the tax credits allowed in this section. No rule or portion of a rule
18 promulgated under the authority of this section shall become effective unless it
19 has been promulgated pursuant to the provisions of chapter 536. All rulemaking
20 authority delegated prior to June 27, 1997, is of no force and effect and repealed;
21 however, nothing in this section shall be interpreted to repeal or affect the
22 validity of any rule filed or adopted prior to June 27, 1997, if such rule complied
23 with the provisions of chapter 536. The provisions of this section and chapter 536
24 are nonseverable and if any of the powers vested with the general assembly
25 pursuant to chapter 536, including the ability to review, to delay the effective
26 date, or to disapprove and annul a rule or portion of a rule, are subsequently held
27 unconstitutional, then the purported grant of rulemaking authority and any rule
28 so proposed and contained in the order of rulemaking shall be invalid and void.

29 4. The tax credits allowed by this section shall be claimed by the taxpayer
30 to offset the taxes that become due in the taxpayer's tax period in which the
31 contribution was made. Any tax credit not used in such tax period may be carried
32 over the next five succeeding tax periods.

33 5. The tax credit allowed by this section may only be claimed for monetary
34 or property contributions to public or private programs authorized to participate
35 pursuant to this section by the department of economic development and may be
36 claimed for the development, establishment, implementation, operation, and
37 expansion of the following activities and programs:

38 (1) An adopt-a-school program. Components of the adopt-a-school
39 program shall include donations for school activities, seminars, and functions;
40 school-business employment programs; and the donation of property and
41 equipment of the corporation to the school;

42 (2) Expansion of programs to encourage school dropouts to reenter and
43 complete high school or to complete a graduate equivalency degree program;

44 (3) Employment programs. Such programs shall initially, but not
45 exclusively, target unemployed youth living in poverty and youth living in areas
46 with a high incidence of crime;

47 (4) New or existing youth clubs or associations;

48 (5) Employment/internship/apprenticeship programs in business or trades
49 for persons less than twenty years of age, in which case the tax credit claimed
50 pursuant to this section shall be equal to one-half of the amount paid to the
51 intern or apprentice in that tax year, except that such credit shall not exceed ten
52 thousand dollars per person;

- 53 (6) Mentor and role model programs;
- 54 (7) Drug and alcohol abuse prevention training programs for youth;
- 55 (8) Donation of property or equipment of the taxpayer to schools, including
56 schools which primarily educate children who have been expelled from other
57 schools, or donation of the same to municipalities, or not-for-profit corporations
58 or other not-for-profit organizations which offer programs dedicated to youth
59 violence prevention as authorized by the department;
- 60 (9) Not-for-profit, private or public youth activity centers;
- 61 (10) Nonviolent conflict resolution and mediation programs;
- 62 (11) Youth outreach and counseling programs;
- 63 **(12) Programs providing food to elementary and secondary**
64 **school age children to take home to supplement meals during non-**
65 **school hours. No more than five hundred thousand dollars in tax**
66 **credits per fiscal year shall be issued under the provisions of this**
67 **subdivision. This amount shall not apply to any other limit on the**
68 **issuance of tax credits under this section.**

69 6. Any program authorized in subsection 5 of this section shall, at least
70 annually, submit a report to the department of economic development outlining
71 the purpose and objectives of such program, the number of youth served, the
72 specific activities provided pursuant to such program, the duration of such
73 program and recorded youth attendance where applicable.

74 7. The department of economic development shall, at least annually
75 submit a report to the Missouri general assembly listing the organizations
76 participating, services offered and the number of youth served as the result of the
77 implementation of this section.

78 8. The tax credit allowed by this section shall apply to all taxable years
79 beginning after December 31, 1995.

80 9. For the purposes of the credits described in this section, in the case of
81 a corporation described in section 143.471, partnership, limited liability company
82 described in section 347.015, cooperative, marketing enterprise, or partnership,
83 in computing Missouri's tax liability, such credits shall be allowed to the
84 following:

- 85 (1) The shareholders of the corporation described in section 143.471;
- 86 (2) The partners of the partnership;
- 87 (3) The members of the limited liability company; and
- 88 (4) Individual members of the cooperative or marketing enterprise.

89 Such credits shall be apportioned to the entities described in subdivisions (1) and
90 (2) of this subsection in proportion to their share of ownership on the last day of
91 the taxpayer's tax period.

135.600. 1. As used in this section, the following terms shall mean:

2 (1) "Contribution", a donation of cash, stock, bonds or other marketable
3 securities, or real property;

4 (2) "Maternity home", a residential facility located in this state
5 established for the purpose of providing housing and assistance to pregnant
6 women who are carrying their pregnancies to term, and which is exempt from
7 income taxation under the United States Internal Revenue Code;

8 (3) "State tax liability", in the case of a business taxpayer, any liability
9 incurred by such taxpayer pursuant to the provisions of chapter 143, chapter 147,
10 chapter 148, and chapter 153, exclusive of the provisions relating to the
11 withholding of tax as provided for in sections 143.191 to 143.265, and related
12 provisions, and in the case of an individual taxpayer, any liability incurred by
13 such taxpayer pursuant to the provisions of chapter 143;

14 (4) "Taxpayer", a person, firm, a partner in a firm, corporation or a
15 shareholder in an S corporation doing business in the state of Missouri and
16 subject to the state income tax imposed by the provisions of chapter 143,
17 including any charitable organization which is exempt from federal income tax
18 and whose Missouri unrelated business taxable income, if any, would be subject
19 to the state income tax imposed under chapter 143, or a corporation subject to the
20 annual corporation franchise tax imposed by the provisions of chapter 147, or an
21 insurance company paying an annual tax on its gross premium receipts in this
22 state, or other financial institution paying taxes to the state of Missouri or any
23 political subdivision of this state pursuant to the provisions of chapter 148, or an
24 express company which pays an annual tax on its gross receipts in this state
25 pursuant to chapter 153, or an individual subject to the state income tax imposed
26 by the provisions of chapter 143.

27 2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's
28 state tax liability, in an amount equal to fifty percent of the amount such
29 taxpayer contributed to a maternity home.

30 3. The amount of the tax credit claimed shall not exceed the amount of the
31 taxpayer's state tax liability for the taxable year that the credit is claimed, and
32 such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand
33 dollars per taxable year. However, any tax credit that cannot be claimed in the

34 taxable year the contribution was made may be carried over to the next four
35 succeeding taxable years until the full credit has been claimed.

36 4. Except for any excess credit which is carried over pursuant to
37 subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit
38 unless the total amount of such taxpayer's contribution or contributions to a
39 maternity home or homes in such taxpayer's taxable year has a value of at least
40 one hundred dollars.

41 5. The director of the department of social services shall determine, at
42 least annually, which facilities in this state may be classified as maternity
43 homes. The director of the department of social services may require of a facility
44 seeking to be classified as a maternity home whatever information is reasonably
45 necessary to make such a determination. The director of the department of social
46 services shall classify a facility as a maternity home if such facility meets the
47 definition set forth in subsection 1 of this section.

48 6. The director of the department of social services shall establish a
49 procedure by which a taxpayer can determine if a facility has been classified as
50 a maternity home, and by which such taxpayer can then contribute to such
51 maternity home and claim a tax credit. Maternity homes shall be permitted to
52 decline a contribution from a taxpayer. The cumulative amount of tax credits
53 which may be claimed by all the taxpayers contributing to maternity homes in
54 any one fiscal year shall not exceed two million dollars **for all fiscal years**
55 **ending on or before June 30, 2014, and two million five hundred**
56 **thousand dollars for all fiscal years beginning on or after July 1, 2014.**

57 7. The director of the department of social services shall establish a
58 procedure by which, from the beginning of the fiscal year until some point in time
59 later in the fiscal year to be determined by the director of the department of
60 social services, the cumulative amount of tax credits are equally apportioned
61 among all facilities classified as maternity homes. If a maternity home fails to
62 use all, or some percentage to be determined by the director of the department of
63 social services, of its apportioned tax credits during this predetermined period of
64 time, the director of the department of social services may reapportion these
65 unused tax credits to those maternity homes that have used all, or some
66 percentage to be determined by the director of the department of social services,
67 of their apportioned tax credits during this predetermined period of time. The
68 director of the department of social services may establish more than one period
69 of time and reapportion more than once during each fiscal year. To the maximum

70 extent possible, the director of the department of social services shall establish
71 the procedure described in this subsection in such a manner as to ensure that
72 taxpayers can claim all the tax credits possible up to the cumulative amount of
73 tax credits available for the fiscal year.

74 8. This section shall become effective January 1, 2000, and shall apply to
75 all tax years after December 31, 1999. **No tax credits shall be issued under**
76 **this section after June 30, 2020.**

135.630. 1. As used in this section, the following terms mean:

2 (1) "Contribution", a donation of cash, stock, bonds, or other marketable
3 securities, or real property;

4 (2) "Director", the director of the department of social services;

5 (3) "Pregnancy resource center", a nonresidential facility located in this
6 state:

7 (a) Established and operating primarily to provide assistance to women
8 with crisis pregnancies or unplanned pregnancies by offering pregnancy testing,
9 counseling, emotional and material support, and other similar services to
10 encourage and assist such women in carrying their pregnancies to term; and

11 (b) Where childbirths are not performed; and

12 (c) Which does not perform, induce, or refer for abortions and which does
13 not hold itself out as performing, inducing, or referring for abortions; and

14 (d) Which provides direct client services at the facility, as opposed to
15 merely providing counseling or referral services by telephone; and

16 (e) Which provides its services at no cost to its clients; and

17 (f) When providing medical services, such medical services must be
18 performed in accordance with Missouri statute; and

19 (g) Which is exempt from income taxation pursuant to the Internal
20 Revenue Code of 1986, as amended;

21 (4) "State tax liability", in the case of a business taxpayer, any liability
22 incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148,
23 and 153, excluding sections 143.191 to 143.265 and related provisions, and in the
24 case of an individual taxpayer, any liability incurred by such taxpayer pursuant
25 to the provisions of chapter 143, excluding sections 143.191 to 143.265 and
26 related provisions;

27 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a
28 shareholder in an S corporation doing business in the state of Missouri and
29 subject to the state income tax imposed by the provisions of chapter 143, or a

30 corporation subject to the annual corporation franchise tax imposed by the
31 provisions of chapter 147, or an insurance company paying an annual tax on its
32 gross premium receipts in this state, or other financial institution paying taxes
33 to the state of Missouri or any political subdivision of this state pursuant to the
34 provisions of chapter 148, or an express company which pays an annual tax on
35 its gross receipts in this state pursuant to chapter 153, or an individual subject
36 to the state income tax imposed by the provisions of chapter 143, or any
37 charitable organization which is exempt from federal income tax and whose
38 Missouri unrelated business taxable income, if any, would be subject to the state
39 income tax imposed under chapter 143.

40 2. (1) Beginning on March 29, 2013, any contribution to a pregnancy
41 resource center made on or after January 1, 2013, shall be eligible for tax credits
42 as provided by this section.

43 (2) For all tax years beginning on or after January 1, 2007, a taxpayer
44 shall be allowed to claim a tax credit against the taxpayer's state tax liability in
45 an amount equal to fifty percent of the amount such taxpayer contributed to a
46 pregnancy resource center.

47 3. The amount of the tax credit claimed shall not exceed the amount of the
48 taxpayer's state tax liability for the taxable year for which the credit is claimed,
49 and such taxpayer shall not be allowed to claim a tax credit in excess of fifty
50 thousand dollars per taxable year. However, any tax credit that cannot be
51 claimed in the taxable year the contribution was made may be carried over to the
52 next four succeeding taxable years until the full credit has been claimed.

53 4. Except for any excess credit which is carried over pursuant to
54 subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit
55 unless the total amount of such taxpayer's contribution or contributions to a
56 pregnancy resource center or centers in such taxpayer's taxable year has a value
57 of at least one hundred dollars.

58 5. The director shall determine, at least annually, which facilities in this
59 state may be classified as pregnancy resource centers. The director may require
60 of a facility seeking to be classified as a pregnancy resource center whatever
61 information which is reasonably necessary to make such a determination. The
62 director shall classify a facility as a pregnancy resource center if such facility
63 meets the definition set forth in subsection 1 of this section.

64 6. The director shall establish a procedure by which a taxpayer can
65 determine if a facility has been classified as a pregnancy resource

66 center. Pregnancy resource centers shall be permitted to decline a contribution
67 from a taxpayer. The cumulative amount of tax credits which may be claimed by
68 all the taxpayers contributing to pregnancy resource centers in any one fiscal year
69 shall not exceed two million dollars **for all fiscal years ending on or before**
70 **June 30, 2014, and two million five hundred thousand dollars for all**
71 **fiscal years beginning on or after July 1, 2014.** Tax credits shall be issued
72 in the order contributions are received.

73 7. The director shall establish a procedure by which, from the beginning
74 of the fiscal year until some point in time later in the fiscal year to be determined
75 by the director, the cumulative amount of tax credits are equally apportioned
76 among all facilities classified as pregnancy resource centers. If a pregnancy
77 resource center fails to use all, or some percentage to be determined by the
78 director, of its apportioned tax credits during this predetermined period of time,
79 the director may reapportion these unused tax credits to those pregnancy
80 resource centers that have used all, or some percentage to be determined by the
81 director, of their apportioned tax credits during this predetermined period of
82 time. The director may establish more than one period of time and reapportion
83 more than once during each fiscal year. To the maximum extent possible, the
84 director shall establish the procedure described in this subsection in such a
85 manner as to ensure that taxpayers can claim all the tax credits possible up to
86 the cumulative amount of tax credits available for the fiscal year.

87 8. Each pregnancy resource center shall provide information to the
88 director concerning the identity of each taxpayer making a contribution to the
89 pregnancy resource center who is claiming a tax credit pursuant to this section
90 and the amount of the contribution. The director shall provide the information
91 to the director of revenue. The director shall be subject to the confidentiality and
92 penalty provisions of section 32.057 relating to the disclosure of tax information.

93 9. Pursuant to section 23.253 of the Missouri sunset act:

94 (1) The program authorized under this section shall be reauthorized as of
95 March 29, 2013, and shall expire on December 31, 2019, unless reauthorized by
96 the general assembly; and

97 (2) This section shall terminate on September first of the calendar year
98 immediately following the calendar year in which a program authorized under
99 this section is sunset; and

100 (3) The provisions of this subsection shall not be construed to limit or in
101 any way impair the department's ability to issue tax credits authorized on or

102 before the date the program authorized under this section expires or a taxpayer's
103 ability to redeem such tax credits.

135.647. 1. As used in this section, the following terms shall mean:

2 (1) "Local food pantry", any food pantry that is:

3 (a) Exempt from taxation under section 501(c)(3) of the Internal Revenue
4 Code of 1986, as amended; and

5 (b) Distributing emergency food supplies to Missouri low-income people
6 who would otherwise not have access to food supplies in the area in which the
7 taxpayer claiming the tax credit under this section resides;

8 (2) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or
9 a shareholder in an S corporation doing business in this state and subject to the
10 state income tax imposed by chapter 143, excluding withholding tax imposed by
11 sections 143.191 to 143.265.

12 2. (1) Beginning on March 29, 2013, any donation of cash or food made
13 on or after January 1, 2013, shall be eligible for tax credits as provided by this
14 section.

15 (2) For all tax years beginning on or after January 1, 2007, any taxpayer
16 who donates cash or food, unless such food is donated after the food's expiration
17 date, to any local food pantry shall be allowed a credit against the tax otherwise
18 due under chapter 143, excluding withholding tax imposed by sections 143.191
19 to 143.265, in an amount equal to fifty percent of the value of the donations made
20 to the extent such amounts that have been subtracted from federal adjusted gross
21 income or federal taxable income are added back in the determination of Missouri
22 adjusted gross income or Missouri taxable income before the credit can be
23 claimed. Each taxpayer claiming a tax credit under this section shall file an
24 affidavit with the income tax return verifying the amount of their
25 contributions. The amount of the tax credit claimed shall not exceed the amount
26 of the taxpayer's state tax liability for the tax year that the credit is claimed, and
27 shall not exceed two thousand five hundred dollars per taxpayer claiming the
28 credit. Any amount of credit that the taxpayer is prohibited by this section from
29 claiming in a tax year shall not be refundable, but may be carried forward to any
30 of the taxpayer's three subsequent taxable years. No tax credit granted under
31 this section shall be transferred, sold, or assigned. No taxpayer shall be eligible
32 to receive a credit pursuant to this section if such taxpayer employs persons who
33 are not authorized to work in the United States under federal law.

34 3. The cumulative amount of tax credits under this section which may be

35 allocated to all taxpayers contributing to a local food pantry in any one fiscal year
36 shall not exceed one million [two] **seven** hundred fifty thousand dollars. The
37 director of revenue shall establish a procedure by which the cumulative amount
38 of tax credits is apportioned among all taxpayers claiming the credit by April
39 fifteenth of the fiscal year in which the tax credit is claimed. To the maximum
40 extent possible, the director of revenue shall establish the procedure described in
41 this subsection in such a manner as to ensure that taxpayers can claim all the tax
42 credits possible up to the cumulative amount of tax credits available for the fiscal
43 year.

44 4. Any local food pantry may accept or reject any donation of food made
45 under this section for any reason. For purposes of this section, any donations of
46 food accepted by a local food pantry shall be valued at fair market value, or at
47 wholesale value if the taxpayer making the donation of food is a retail grocery
48 store, food broker, wholesaler, or restaurant.

49 5. The department of revenue shall promulgate rules to implement the
50 provisions of this section. Any rule or portion of a rule, as that term is defined
51 in section 536.010, that is created under the authority delegated in this section
52 shall become effective only if it complies with and is subject to all of the
53 provisions of chapter 536 and, if applicable, section 536.028. This section and
54 chapter 536 are nonseverable and if any of the powers vested with the general
55 assembly pursuant to chapter 536 to review, to delay the effective date, or to
56 disapprove and annul a rule are subsequently held unconstitutional, then the
57 grant of rulemaking authority and any rule proposed or adopted after August 28,
58 2007, shall be invalid and void.

59 6. Under section 23.253 of the Missouri sunset act:

60 (1) The program authorized under this section shall be reauthorized as of
61 March 29, 2013, and shall expire on December 31, 2019, unless reauthorized by
62 the general assembly; and

63 (2) This section shall terminate on September first of the calendar year
64 immediately following the calendar year in which the program authorized under
65 this section is sunset; and

66 (3) The provisions of this subsection shall not be construed to limit or in
67 any way impair the department's ability to redeem tax credits authorized on or
68 before the date the program authorized under this section expires or a taxpayer's
69 ability to redeem such tax credits.

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